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MEMORANDUM

From: *S. Gilreath*
S. GILREATH, LCDR
CGD EIGHT (dl)

Reply to: LCDR S. Gilreath
Attn of: (504) 589-6188

To: COAST GUARD DOCKET NUMBER CGD08-03-014

Subj: EX PARTE COMMUNICATION

1. On 8 May 2003 the Eighth Coast Guard District hosted a meeting with members of the American Waterways Operators (AWO) to encourage the marine industry to submit comments regarding the Regulated Navigation Area (RNA) 33 CFR § 165.T08-019 published in the Federal Register on 2 May 2003. The meeting was held in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130. The following Coast Guard members were in attendance: RADM Robert Duncan, CAPT James Stark, CAPT Daniel Ryan, CAPT Michael Brown, CDR Frank Paskewich, LCDR Rich Teubner, LCDR Greg Howard, LCDR Shannon Gilreath, LCDR Chris Palmer, LT Karrie Trebbe and LT Nicole Carter. RADM Duncan, CAPT Stark, LCDR Palmer, and LT Carter attended the first hour of the meeting. The following members of industry were present: Mr. Anthony Taormina, ARTCO; Mr. Jim Farley, American Commercial Barge Line LLC; Mr. Del Wilkins, American Commercial Barge Line LLC; Mr. Tom Smith, Canal Barge Company, Inc.; Mr. Lamarr Hirsch, Blessey Marine Services, Inc.; Mr. Ken Wells, AWO; Mr. Richard Northcutt, Kirby Marine; Mr. Scott Noble, Ingram Barge Company and River Inland Executive Task Force (RIETF); Ms. Lynn Muench, AWO; Mr. Dave Shaw, Kirby Corporation; Mr. Kerry Gunter, ARTCO; Mr. Bill Stegbauer, Southern Towing Company; and Mr. Frank Stegbauer, Southern Towing Company.

2. The meeting began with a brief introduction by RADM Duncan who informed the participants that because we were engaged in rulemaking we would be documenting the substance of the meeting to comply with the rules for ex parte communications. He urged each of the members present to back up any comments they wished to make during the meeting with a written comment submitted to the docket.

3. Several industry representatives commented on their concern that they had not been given an opportunity to participate in the development of the RNA prior to its implementation. There was considerable concern that this might damage hard-won partnering relationships between industry and the Coast Guard. They were pleased that they were getting an opportunity to comment, but they would have preferred to be involved prior to the rule going into effect.

4. There were several comments regarding the need for consistency between this RNA, the Notice of Arrival requirements for coastal ports, MARSEC levels, and individual actions implemented by COTPs. The RNA was established just prior to the MARSEC levels being reduced. Several individuals felt that the reduced MARSEC or Homeland Security Alert levels should correspond to a reduction in reporting requirements. There was concern expressed that the reporting requirements for the inland river barges crewed by U.S. licensed mariners were greater than the reporting requirements for some foreign flagged vessels operating within the coastal zones. Other individuals indicated that the differences in reporting requirements between the coastal zone and river system made reporting much more difficult. One individual indicated

that his company would prefer to operate under the same reporting requirements in both areas to reduce confusion in the information that has to be gathered and submitted.

5. There was discussion regarding the types of cargo that require reporting and how they were selected. Cargoes were selected based on a combination of factors including toxicity and explosive hazards. The list of cargoes includes cargoes that have not been traditionally carried on the river but which are not prohibited from carriage.

6. Several individuals commented on the location of the reporting points. Some individuals felt that in some places the reporting points were located in a dangerous river bend or other hazardous location. There were also comments concerning the lack of need for reporting requirements outside of high-density populations, specifically the area between Baton Rouge, LA and Memphis, TN. Others indicated that they would prefer to change the reporting points on the upper river systems to correlate with the locks on these rivers. The Army Corp of Engineers (ACOE) already requires tows to report the cargo carried in barges as the barges pass through these locks. The commenter felt that the Coast Guard could obtain this information from the ACOE rather than have separate reporting points for the Coast Guard. Other individuals felt that reporting was unnecessary because industry would take the initiative to report a missing or lost barge to the Coast Guard. There was discussion regarding the possibility of companies submitting real-time barge movement information to the Coast Guard via computer tracking programs in lieu of reporting to the Coast Guard at individual reporting points. A number of technology issues must be addressed in this area before this could become a reality and not all the individuals at the meeting supported this concept. There was a proposal that technology issues be addressed through a specific working group. The issue of a passive transponder type system was raised, but the cost of such a system was cited as the biggest prohibitive factor. Another suggestion was made to reduce the reporting requirements to a single report every 24 hours during periods of lower MARSEC levels and, if the MARSEC level rose, the reporting requirements could be increased. A counterargument was made to this proposal because it would not satisfy the need for constant maritime domain awareness.

7. The goal of the RNA, to enhance maritime domain awareness by tracking the movement of certain dangerous cargoes through high-density population areas, was explained.

8. The cost and burden of the reporting requirements, particularly on smaller or midsize companies that do not have 24-hour dispatchers was raised. The issue was that preparing reports for the Coast Guard adds to the daily workload of the mariner.

9. Several issues were raised concerning the types of boardings being conducted on towboats that push the barges. Concern was expressed that waking sleeping crewmembers for a boarding was an unnecessary and a potentially unsafe practice because of the impact it could have on the mariners ability to stand a safe watch later. Another concern that was voiced was the type of training the Coast Guard boarding officers had received. Other comments centered on the potential distrust of the Coast Guard that mariners might develop from these boardings and how that could impact their willingness to make other reports to the Coast Guard. Ideal boarding scenarios, procedures, and protocol were discussed.

10. Another comment raised was confusion over who had responsibility for notifying the Coast Guard when barges were being placed in a fleet. A scenario was presented where a fleet operator could be called to move a barge loaded at a facility to a barge fleet without sufficient time to provide the required four-hour notification to the Coast Guard. There was also some confusion over who had responsibility to provide notification of the location of these barges. The definition of operator used in the temporary final rule is very broad and covers any person who is responsible for operating the barge, including the owner, charterer, and contractor. This

definition does not specifically refer to fleet operators. The confusion created by this definition could lead to duplicate reporting or failure to report.

11. The Coast Guard committed to three actions. First, boarding procedures and training for boarding team members will be reviewed. Second, information gathered during this meeting will be shared with Ninth Coast Guard District counterparts because they have an identical RNA for that portion of the Illinois River located within the Ninth District. Finally, the Coast Guard will review the actual location of the RNA reporting points to remove duplication and address locations that may be in dangerous or hazardous areas.

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